

RECESSED RECORDS MANAGEMENT COMMITTEE

City Clerk's Conference Room, 1st Floor, City Hall

400 Stewart Avenue, Las Vegas, Nevada

CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.ci.las-vegas.nv.us>

September 26, 2001

2:00 p.m.

CALL TO ORDER: City Clerk Ronemus called the meeting to order at 2:10 p.m.

ATTENDANCE: Barbara Jo (Roni) Ronemus, City Clerk
John Redlein, Assistant City Attorney
Joseph Marcella, Director, Information Technologies
Mark Vincent, Director, Finance & Business Services (Excused at 3:10 p.m.)
Radford Snelding, City Auditor
Richard Goecke, Director, Public Works
Beverly K. Bridges, Chief Deputy City Clerk
Angela Crolli, Deputy City Clerk

EXCUSED: Doug Selby, Deputy City Manager
Sharon Kuhns, Records Administrator

BUSINESS:

Chair Ronemus gave an overview of the discussion held on 9/21/01 Records Management meeting prior to recessing a portion of that meeting to this meeting. That discussion included Chair Ronemus submitting a draft copy of the Standard Copying and Certification Fees public notice with information provided by Assistant City Attorney John Redlein. Chair Ronemus read paragraphs that she included at the bottom of the notice stating *Public Record copying costs are waived for government requestors who, similarly, waive the City's copying costs. Additionally, there may be departmental charges for materials and services. These listing are available upon request or are available in the City Clerk's Office.* She requested that Item C be further discussed at the 10/19/01 Records Management Meeting meeting. Chair Ronemus also distributed the City Clerk's Office fee schedule for materials and services. She indicated that the Committee had decided to go over all the materials and services fee schedules for consistency, but not necessarily approve them. It would be up to the department whether they want a fee schedule. Mark Vincent, Director, Finance & Business Services, stated that he approves of the paragraph informing the public that there may be other fees incurred. However, Assistant City Attorney John Redlein indicated that the last paragraph should not be included. It is not important for the public to know that fees are waived for government requestors. The second paragraph repeats what is already stated in the notice. As far as the last paragraph, the public should not have to come to the City Clerk's Office to find out if there would be extra fees for documents that they may be obtaining from another department.

Assistant City Attorney Redlein asked whether the committee refined the definition of deviation from standard fees so that it will only involve items such as 11 x 17 colored maps or an extra charge of \$30.00 an hour research fee. These fall under the alternate fee schedule. Chair Ronemus countered that the Committee has not specifically addressed this issue. If someone asked for an 11 x 17 map and shrink it to an 8 ½ x 11, it will cost a \$1.00 per page. That would be on the material and services listing and not be an alternate to the fee schedule. Mr. Goecke asked whether the Committee is empowered to dictate what another department charges for labor costs per hour. Chair Ronemus replied that she does not believe so, but the Committee is empowered to discuss it and make recommendations based on citywide approach to the fees so that they are fair and consistent. Assistant City Attorney Redlein suggested that a color map could be instantly available through the GIS database. However, Chair Ronemus replied that under GIS that is not an alternate fee schedule because the GIS fee schedule is allowed in Nevada law. Maybe this should also be noted in the copying fee schedule as well.

Assistant City Attorney Redlein described a situation where a department requested a color map through the utilization of another department and that department charged more than the standard copying fee. This situation may be an alternate fee schedule. He questioned if this is not an alternate fee schedule, how is that department able to charge something other than the standard reproduction fee since there is no recovery and research expense. Mr. Vincent stated that in this case the Committee should review the fees and decide whether or not they should be changed. Assistant City Attorney Redlein pointed out that within the public notice it states there may be added expenses for extra work. Chair Ronemus reiterated that it is important that the Committee reviews the fee schedule for constituency, not necessarily approve it, but at least have the opportunity to be sure that it is consistent. The extra charge would be for material and service, not a copying fee. Mr. Goecke stated that sooner or later there would be something out there that would be called an alternate fee schedule. Mr. Vincent stated that if someone requests a copy of a data file from Business Licensing, a CD or a disk would be provided. That is material and labor to produce that, not a document. Chair Ronemus agreed that it would be material and services. In fact her office does that all the time and it charges \$5.00 per CD.

Chief Deputy City Clerk Beverly K. Bridges commented that the City Clerk's Office issues Contribution and Expenses Reports Packages for Report 1, 2 and 3. These reports range from three to three hundred pages. Therefore, instead of a \$1.00 a page, the entire package is sold for \$5.00. She asked whether this would be considered an alternate fee. Chair Ronemus replied in the affirmative. She addressed the question of whether the Daily Business License Application Report is an alternate fee schedule. Mr. Vincent replied that this report is produced for office use. The question arises if someone automatically wants that report sent on a routine basis. Chair Ronemus commented that WENDY SMITH's question from the last meeting was whether or not she was even going to produce this report or if she was going to put it in on a CD. She also has a Master Business License Report printed when requested. Chair Ronemus again was perplexed as to why she would charge \$50.00 for a CD. Mr. Vincent concurred with Chair Ronemus that other departments should be brought in for consistency. Assistant City Attorney Redlein expressed concern because this is not in harmony with the Resolution. To him, this would seem to be an alternate fee schedule. Alternate fee schedule is for that readily recoverable material, so it is not a matter of an employee spending 40 hours to find a document or that something that needs to be produced. It is not any item that is not a \$1.00 a page. An alternate fee schedule would also be for those departments that charge either \$5.00 or \$10.00 for a CD. Chair Ronemus stated that if the

entire Committee felt the same way there would be a problem because the Resolution would be implemented October 1, 2001, and people would be charged a \$1.00 a page. City Departments have not had an opportunity to come before this Committee for a formal approval of an alternate fee schedule. There is not enough time to look at materials and services from every department. Assistant City Attorney Redlein responded that they would be covered under materials and services, and that it would not be a major offense to have the words alternate fee schedule missing from this document. One dollar per page is all that has been adopted fee schedule. Everything else needs to be an alternate. Chair Ronemus indicated that she does not object to eliminating the last paragraph from the Resolution. Mr. Vincent commented that departments need to recognize that they need to come before this Committee for approval of an alternate fee schedule for material and services, even though this Resolution will go forward

Mr. Goecke expressed concern about the Committee having to tell a department a certain fee that they would need to charge for the CD. What happens when that department thanks the committee for the advice, but decides not to implement that fee? Mr. Vincent stated that a department might be put in an embarrassing situation if one charges \$5.00, another \$10.00 and still another \$50.00 for a CD. There needs to be some standardization for the amount. He asked whether the Committee could dictate or set a specific fee. Chair Ronemus emphasized that she would not have a problem with changing a CD fee the Committee advised her that it would need to be done in order to be consistent with other departments. Mr. Goecke reiterated that some departments might not be so generous in changing their fee. Chair Ronemus replied that her concern is calling it an alternate fee schedule because it is not on paper. Assistant City Attorney Redlein indicated that the implication of the Resolution is that anything other than a \$1.00 a page will be posted and would have been before the Committee for approval. The schedule is a \$1.00 a page and an alternate fee schedule can be submitted, approved, and when approved must be posted. Mr. Vincent asked whether the Resolution also states that alternate fee schedules will be approved. Mr. Marcella pointed out that the problem is determining what is an alternate fee schedule.

Mr. Vincent stated that he believes that time and materials for research is not an alternate fee schedule. Assistant City Attorney Redlein mentioned that he would be able to argue this point in court because the Resolution does not say, "a document which shall be entitled and labeled alternate fee schedule shall be before the Committee and shall be posted on the wall". If there is an alternate fee schedule the director can apply for it and when is approved by the Committee it goes on the wall. He would not have a problem saying that is an alternate fee schedule and it complies with the Resolution. Mr. Goecke expressed concern that this might result in some departments breaking the law by not submitting or establishing an alternate fee schedule. Chair Ronemus responded that she does not see it as breaking the law, but just an oversight of not coming before the Committee. However, an issue might arise if the media or a member of the public would question a specific fee. Mr. Vincent asked Assistant City Attorney Redlein if a department, without any malicious intent, charges a fee schedule that is not in compliance with the Resolution, is that department in danger of being prosecuted of violating the law. Assistant City Attorney Redlein replied that even if departments are not in perfect compliance in the first week of October, they can be brought into compliance within a meeting or two. The CD issue needs to be addressed to avoid embarrassment down the road. Mr. Goecke asked in the event someone challenges a department director over a particular fee, would that person protest to the Records Committee. Would the Committee's answer be that that department never came before this committee with that fee proposal or would the answer be that department director does not have to come before this committee with that fee

schedule? Chair Ronemus replied that if it is an alternate fee schedule as per the Resolution, it has to come before the Committee. If it is simply a departmental material and charges that the Committee informally reviews. It would not have to come before the Committee. Mr. Marcella pointed out, the question that needs to be answered is the definition of an alternate fee schedule, which the attorney needs to define.

Mr. Goecke referred to Chris Petersen, Building and Safety, issue about her charging an hourly rate of \$50.00 for what she considered as two people doing the research, a fee that was determined by the Building and Safety Department. Should she have come before this group with that discussion? Chair Ronemus responded that the Committee told her that in essence that is her determination, but to make sure they can support it, and rather than going for the \$25.00 or the \$50.00 per hour, look at it on a case by case so that it can be justified. Assistant City Attorney Redlein added that the requestor is made of aware of charge and why it is being assessed. Mr. Marcella indicated that in former place of employment all their fees were standard through the enterprise. He does not believe the Committee will have a great deal of difficulty about getting some sort of standard pricing, based on the actual costs of these components. He referred to Chair Ronemus' list showing a good solid list of everything that the City Clerk's Office provides and its fee. GIS is the only other department that he would consider as an alternate fee schedule. The truth is that everything that falls into place is covered by this definition. Since the Committee does not have the option of mandating anything other than a \$1.00 a page, Mr. Marcella suggested that the each department come before the Committee and have them make the recommendation as to any other fee that they have, CD or otherwise. Somewhere along the line this can be standardized throughout the rest of the organization, and then the alternate fee schedule gets posted according to the organization.

Chair Ronemus discussed with Mr. Goecke that she would not put a standard price on the CD. She would put a price on the research cost for that extraordinary request because it would not be a matter of only pushing a button, but the amount of time involved. Mr. Vincent added that Wendy Smith from Business Services arrived at charging a specific rate because she knew that charging a \$1.00 a page for that report was outrageous. But since there was a demand, she charged a flat fee. However, there has to be a process that says that if there is a demand for a report, every time it will cost that price. Mr. Goecke argued that she is putting research time in the cost of that. She is not differentiating between the research time. Mr. Vincent commented that his only problem was with the \$50.00 fee she was charging for the CD. He believes she was thinking about the value of the item, as opposed to its cost. He does not believe the Committee should precisely dictate that everybody charges the same amount. However, if a department can defend the reason why they need to charge a different fee, the Committee ought to hear what that defense is and if it warrants that specific fee. He agrees with Assistant City Attorney Redlein that some of that material is an alternate fee schedule for readily producible items. They should at least come through the Committee. Chair Ronemus indicated that she would provide Ms. Smith with the information regarding the verbatim transcripts fee.

Mr. Goecke asked where the readily recoverable standard document came from, as well as the certification fee. Assistant City Attorney Redlein replied that it has been used for some time to connote the items found in a specific department that does not require a big searching, and of course does not require effort to make. Mr. Vincent mentioned that unless a department charges a \$1.00 a page, they would have to come before the Committee for an alternate fee schedule. Mr. Marcella disagreed. In his case he sell electronic data, which is compiled by his department based on the GIS and different map companies. They come back every year and subscribe to that data. That is not an alternate fee schedule. That is a subscription. Chair Ronemus asked Mr. Vincent what prompts his office to produce that type of report, and if is produced by only one request. Mr. Vincent replied

that when it becomes an inconvenience to stop what he is doing or to find the resource to do it on a case by case basis, the decision becomes that it is better to publish the report. Chair Ronemus asked whether he charges someone to produce the report for the first time. This goes back to what the City Clerk's Office does with the C&Es. When the office receives one request and it starts costing more time to produce it, 10 or 20 sets are made and have them available at whatever it costs Graphics to run those packages. But is a decision that is made because multiple requests were received, not just one. Additionally, the C&Es are available on the website. Mr. Marcella referred to other information that is requested on a consistent basis, such as the election information. In Mr. Vincent's case regarding bid packages, it is to his and the City's benefit to publish that information. The same goes for GIS, if someone wants a subscription of the data, Mr. Marcella provides them with the data on a consistent basis, month-to-month, with all the updates in that format and they will subscribe to that format. They could download it from the web, but they choose to go with the subscription. Chair Ronemus stated that subscription would be the third category. If the Committee concurs with that, then Ms. Smith's issues would be addressed, as well as the bids and the C&Es because they are a publication. This would also apply to the annotated agendas.

Mr. Marcella added that this would also give this Committee the opportunity to help a department determine whether it is an alternate fee or whether it fits within some reasonable parameter, based on what they have explained, such as a publication. There is a difference between day-to-day services and somebody coming in and doing some sort of research that it is separate and distinct and they are looking for documents. Chair Ronemus asked Assistant City Attorney Redlein whether a publication would be required to come under an alternate fee schedule or can it be generated based on business practices. Assistant City Attorney Redelein replied that Ms. Smith's reports, Fire Services producing a fire safety pamphlet, or Paul Wilkins providing a pamphlet on how to obtain building permits and plans reviewed efficiently. All these items are publications and the sense of NRS 239 is that publications are not public records. Mr. Vincent indicated that he likes the idea that as director he has some discretion to make a decision that in certain cases certain data he would like to publish because there is a demand and a need. Mr. Snelding asked what is the difference of him submitting an audit to the City Clerk's Office, who will make a copy at \$1.00 a page, than he providing sets as a publication because it is of interest to the public. Mr. Vincent added that he also produces two boxes of the budget in brief and chooses not to charge for it because he feels it is a public service issue. In fact, the City Council requests the budget in brief to give them to their constituents. Mr. Marcella verified with Ms. Snelding that he could not say whether he charged someone \$1.00 a page for an audit request because to this day he never received one. After this meeting when a request comes in he would charge that amount. However he would still rather provide it to the public as a service, especially because they do receive a number of requests. Chair Ronemus pointed out that backup documentation requested prior to a public hearing is free, but after the meeting it is \$1.00 a page, and people are aware of that.

Assistant City Attorney John commented whether the Committee should be approving this, even though is not getting a new title, as in effect an alternate fee schedule. Mr. Vincent stated that if those are fees for delivering publications, that is a publication, but if those are just material fees that they charge for an agenda item, and not just a copy of the entire agenda, then it would be an alternate fee schedule. He further stated that he is confused on what exactly is an alternate fee schedule. Assistant City Attorney Redlein indicated that it has the essence of alternate fee schedule whether it is cheaper or more expensive. He suggested that other departments need to come before the Committee to show how they treat these types of requests, and whether they are consistent with other departments. Mr. Marcella concurred. Chair Ronemus informed Assistant City Attorney

Redlein that this item is not agendaed for approval, and that the list she distributed was only provided as a sample. However, the Committee is agendaed to approve the Building and Safety and Business Services fees, such as what Ms. Smith provided. Additioanlly, also Ms. Petersen's issue was addressed. **Therefore Assistant City Attorney Redlein moved to adopt as the City's Public Notice for standard fee schedule with the text as submitted with the deletion of the last paragraph. Mr. Goecke seconded. Motion passed unanimously with Vincent and Selby excused.**

Assistant City Attorney Redlein indicated that for future agendas, a decision should be made about whether or not departments and individual divisions should be advised they should be working on an alternate fee schedule. Chair Ronemus responded that Ms. Kuhns has already put out a call out to them. She added that it also needs to be determined what are the parameters of a publication and how is it classified. Mr.. Snelding could call his audit report a publication and if so, the City Clerk's Office would have to give them out free. Publications are free and him having it on file with her office is worthless. Mr. Goecke asked for clarification about a publication being given out for free. Assistant City Attorney Redlein informed him that a publication is not necessarily a public record, such as explained before a pamphlet on fire safety. This type of publication does not have to be included on a record retention schedule.

Ms. Bridges pointed out that the City puts out publications and when is classed as a publication, the City Clerk's Office is required to send six copies to the State Archive in Carson City. She asked how the classification of publication applies to the State archives. Assistant City Attorney Redlein replied that is not necessarily something that has to go on a regular retention schedule. The reason might be because they are following the rules and always receive six copies. Chair Ronemus suggested keeping this issue for a future agenda because there are questions on this subject. Assistant City Attorney Redlein indicated that a definition of publication might be something that is produced in quantity in advance of any request in a format that differs in any way from that which it kept. Mr. Snelding commented that the audit is a report, not a publication. Mr. Marcella noted that the numbers of instances where these decisions are going have to be made are not infinite. He honestly believes that 75% of everything that has been discussed is already out there, and that would either fit in the alternate fee schedule or publication. Chair Ronemus suggested that the definition of publication, subscriptions and reports be included on the next agenda. She would send a memo to City Manager Virginia Valentine because she might want this standard form to come from her office. However, this will not preclude the Committee from discussing this on the next agenda.

Mr. Marcella expressed concern about having departments come forward with an alternate fee schedules when the Committee is not yet sure of its definition, as well as the definition of a brochure or publication. Chair Ronemus stated that it could be called an alternate fee schedule. Mr. Goecke stated that he personally feels that the Committee should advise a department of a fee schedule. Mr. Marcella verified with Assistant City Attorney Redlein that the Committee probably does not have advisory capability under the code. The Committee might be dodging the bullet of the guy who did not come before the Committee to get the fee schedule approved, and then have someone complain that it does not comply with the law. Chair Ronemus indicated that during the discussion on the alternate fee schedule and the definition of publication, discussion concerning the media and copies for the media should be addressed. Some discussion was held at TEAM on whether or not a standard was going to be set of x number of pages for everybody free of charge.

Mr. Goecke exclaimed that he thought it was decided that the fee was \$1.00 a page, and that the department directors had discretion. Mr. Marcella replied that is not official. Continuing, Mr. Goecke stated that if directors had discretion, there would be wiggle room. Assistant City Attorney Redlein indicated that it is not a violation of law to not charge, but might be an administrative disciplinary matter. If the City policy approved is that no documents are to be given for free, and the City Manager Virginia discovers that a department is still giving away free documents, that person could be disciplined. Mr. Marcella asked whether it is of value to say that the first three or five pages of any document are free. City Attorney Redlein replied no because it is of no measurable value to the City. Mr. Marcella added that it should be the same for the public as the media. Mr. Snelding opined that three or five or none is the same problem, because what happens when it is six or seven. Mr. Marcella agreed then that it should be none. Chair Ronemus commented that was the final determination of the Committee. Therefore, October 1, 2001 it would be \$1.00 a page. She reiterated that for all practical purposes, Building and Safety and Business Services have been taken care because they do not have an alternate fee schedule at this point.

C DISCUSSION AND POSSIBLE ACTION ON FEES FOR PUBLIC RECORDS PROVIDED ON ALTERNATE MEDIUM.

Chair Ronemus stated that she would like to change the language of this item, therefore she asked for a motion to strike and would direct Ms. Kuhns to place it on the 10/19/01 agenda. Chair Ronemus moved to Strike – Goecke – seconded. Motion carried unanimously with Selby and Vincent excused.

(3:35 – 3:40)

1 - 3560

D INFORMATIONAL MATTERS FOR FUTURE RECORDS MANAGEMENT COMMITTEE AGENDAS.

Mr. Goecke indicated whether it would be wise to put back on the agenda Building and Safety and Business Services alternate fee schedule because the Committee may have chartered a course of action that might be changed. Chair Ronemus concurred and added that she would direct Ms. Kuhns after the 10/19/01 meeting.

Assistant City Attorney Redlein stated he received a brochure regarding shredding. Chair Ronemus replied that Ms. Kuhns was involved in the RFP on this issue and is very familiar with the different companies, and he can forward that brochure to her.

Mr. Goecke addressed a list from the Planning Department showing all the fees and asked whether those fees are adopted by Resolution by the City Council. While doing a research on fees, he found that some Public Works' fees some are adopted by Resolution and some by Ordinance. All Building and Safety fees are adopted by Resolution, as well as planning.

Chair Ronemus indicated that this might be an item to be discussed by this Committee whether these fees need to be put together into another form. This Committee cannot deal with these fees if they have been adopted by Ordinance, policy, or Resolution. She further stated that she does not believe that those fees brought forth by Ms. Petersen were adopted by Ordinance because those items dealt with plans paid directly to Mercury Blue Print and research was their own option. Mr. Goecke suggested that Bob Genzer be asked which of those fees were adopted by the City Council. Ms. Bridges indicated that Title 19A comes from a publishing company, and an appeal is prescribed in the code.

(3:40 – 3:45)

2-3

CITIZENS PARTICIPATION:

None.

ADJOURNMENT:

MARCELLA- Motion to ADJOURN – GOECKE- seconded the motion – UNANIMOUS with Selby and Vincent excused

The meeting adjourned at 3:45 p.m.

/ac